IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.247 OF 2005
IN
ARBITRATION PETITION NO.525 OF 2004

M/s.S.P. Motors & ors. Appellants
vs.
M/s.Niskalp Investments & Trading
Company Limited & ors. Respondents

Mr.Mahesh Menon i/b.M/s.M.Menon & Co. for the appellants.

Mr.E.P. Pooniwala i/b. Mr.Y.R.Shah for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 20th June 2005

P.C.

Heard.

2. The liability to the extent of Rs.3,10,78,858/- as on 31st March 2000 appears to have been admitted by the present appellants in the letter dated 10th September 2001. The said letter reads thus:

" S P MOTORS

September 10, 2001
Reference: spm/nish/in/wo/1

M/s.Nishkalp Investment and Trading Co.Ltd.,
Mumbai.

Attention:Mr.Jayesh Modi.

Dear Sirs,

SUBJECT:LOAN AMOUNT OF RS.379,00,000/-.

With reference to the telephonic conversation had with you on 10/09/2001 with respect to the above mentioned subject we state as under:

1) During the period 1/4/98 to 31/3/2000 the discounting charges amounted to Rs.200 lakhs which was because of market recession and excess stocking of inventory.

2) The actual liability as of 31/3/2000 was Rs.3,10,78,858 and discounting charges was Rs.64,81,141.56/- Thus out of the total liability of Rs.3,70,60,000/- about Rs.200 lakhs is discounting charges only. This being so we request you to consider our request for some sort of relief in the amount of discounting charges. The Agreement signed with Niskalp for payment of the outstanding liability (inclusive of the 200 lakhs discounting charges) @ 12% over a period of three years is quite huge.

3) The cash flows generated out of the dealership business are inadequate to meet the repayment commitments to Niskalp.

Considering the above facts and current depressed market condition we seek your co-operation and guidance to reorganize the repayment value and schedule so that it is within our means to make the installment payments.

Thanking you for your consideration.

Regards,
FOR SP MOTORS
Sd/-
PARTNER."

3. The same position is reflected from the other letter

dated 13th September 2001. The Arbitral Tribunal considered these two documents and noticed that the liability is admitted by the present appellants in the aforesaid documents. The learned Single Judge in the circumstances found no ground for entertaining the petition under Section 34 of the Arbitration and Conciliation Act, 1996 against the said award. We find no error in the impugned order.

4. The appeal does not deserve to be admitted. It is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)